

TODILTO
EXPLORATION AND DEVELOPMENT CORPORATION
311 WASHINGTON SE
Albuquerque, New Mexico 87108
(505) 266-8484 fax (505) 266-8622--

AUG 26 1991

August 23, 1991

Mr. Robert E. Ivey
Contracting Officer
Department of Energy
Grand Junction Projects Office
P. O. Box 2567
Grand Junction, Colorado 81502-2567

RE: DOE Mining Lease No. AT(05-1)-ML-60.8-NM-B-1

Dear Mr. Ivey:

This is in response to your request that Todilto Exploration and Development Corporation reconsider its decision not to undertake certain mine closure work as a subcontractor of your prime contractor, Chem-Nuclear Geotech, Inc. The mine closure work is described in a Statement of Work attached as Exhibit A to Geotech's July 23, 1991, Request for Proposal sent to the undersigned.

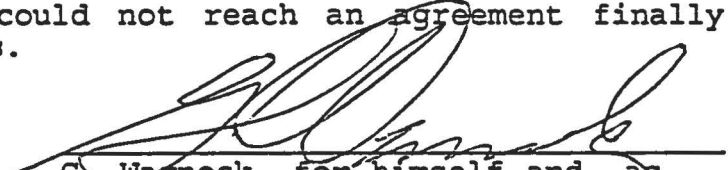
It is our understanding from you and your counsel that the DOE has decided to undertake this work in response to concerns of the EPA with gamma radiation that the EPA claims it detected at an ore storage area outside the mine and with radon it claims it detected at the vent holes and ventilation raise for the mine, although the EPA has not notified the DOE that it is a PRP under CERCLA and has not issued an order under CERCLA directing the DOE to perform any mine closure work. We also understand that while you do not claim that the mine closure is required by the lease, you believe it constitutes "lawful uses...granted by the Government" that do "not obstruct or unduly interfere with any right granted under this lease," as provided in subparagraph VIII(b) of the lease. We understand that you proposed these particular methods of mine closure, as opposed to other alternatives, to the EPA and the Department of Interior and sought and obtained the EPA's approval of them as a plan of corrective action. Finally, we understand from you that while the mine closure would settle matters between the DOE and EPA, it is your position that it would not settle the lessee's obligations under the lease and would leave you, as well as the EPA, free to continue to pursue Todilto on any matter concerning the lease and the mine. You should advise me if any of our understandings is incorrect.

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In these circumstances, we cannot undertake this mine closure work as your subcontractor. If we did, we would be contracting to substantially damage, if not destroy, our own leasehold and, in practical effect, bring the lease to an end without any agreement from the DOE (or the EPA) that anything is settled, and with the DOE still insisting that other work is required of us. Also we do not agree that these methods of mine closure are necessary under CERCLA, or that the lease requires or authorizes the DOE to cause this work to be performed. The mine closure is not the grant of a use and clearly would obstruct or interfere with our mining rights under the lease.

Todilto Exploration and Development Corporation and I therefore protest the performance of this closure work at the mine, we do not waive any of our interests under the lease and we reserve all rights under the lease, or otherwise, to contest the performance of this work and the damage and destruction of the mine and the leasehold caused by it.

I am sorry that we could not reach an agreement finally settling matters between us.


G. Warnock, for himself and, as
President, for Todilto Exploration
and Development Corporation

cc: Mark Olson